



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 176401

PRELIMINARY RECITALS

Pursuant to a petition filed on August 24, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services to recover Medical Assistance (MA), a hearing was held on September 14, 2016, by telephone.

The issue for determination is whether the agency is entitled to recover an MA overpayment caused by client error.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Wood County Human Services
220 Third Avenue South
Suite 4
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Kristin P. Fredrick
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. Petitioner received FoodShare and BadgerCare Plus MA since November 2014.

3. On December 22, 2014, the petitioner received an “About Your Benefits” Notice informing him that if his total gross income exceeded \$1,265 in a month, he must report that change by the 10th day of the following month.
4. Petitioner’s gross income exceeded the amount of \$1,265 beginning in February 2015.
5. Petitioner failed to report the change in his gross income until October 2015.
6. Petitioner was paid BadgerCare Plus benefits in the amount of \$1,242.81 from April 1, 2015 through October 31, 2015.
7. The agency discovered the petitioner’s overpayments in July 2016.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client’s error. Overpayments caused by agency error are not recoverable.

Petitioner testified that he did not realize that he had received a raise and because he worked variable hours, he did not realize that his gross monthly income had increased over the limit. However, the petitioner would merely have needed to look at his paystubs to determine the total amount of his monthly income. The amount of petitioner’s income beginning in February 2015 should have triggered a report of increased income by the 10th of March 2015, which would have affected petitioner’s BC+ eligibility as set out Wis. Stat., §49.497(1)(a)2 cited above. The Department clearly established that the petitioner is responsible for the overpayment of BadgerCare Plus benefits beginning April 1, 2015 through October 31, 2015 in the amount of \$1,242.81.

CONCLUSIONS OF LAW

1. The Department correctly determined that the petitioner was overpaid BC+ from April 1, 2015 through October 31, 2015 in the amount of \$1,242.81.
2. The overpayments were caused by petitioner failing to report an increase in income above the reporting threshold and thus is recoverable.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of September, 2016

\s _____
Kristin P. Fredrick
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 19, 2016.

Wood County Human Services - WI Rapids
Public Assistance Collection Unit
Division of Health Care Access and Accountability